

REMARKS

The application has been amended and is believed to be in condition for allowance.

Claims 12 and 24 were amended to further recite that the cross section of said standard part being symmetrically oval (previously recited) and all elements on an end face of the standard part being disposed in such a symmetrical arrangement that a 180 degrees rotation makes no cosmetic difference. Support for this amendment can be found at least from the first sentence of paragraph [0009]. Therefore, no new matter is entered by way of this amendment.

See that claim 23 recites the standard part comprising i) an outer end face, and ii) a microphone sound aperture located in a center of the outer end face wherein the cross section of an outer boundary of the outer end face of the standard part is mirror symmetrical in outside end view.

Claim 19 has been amended to address the claim objection.

Claims 12, 15, 16, 19, 22-27 and 31-22 were rejected as obvious over AMBROSE 4,852,177 in view of LEVIN 6,144,750.

Claims 17, 18, 28 and 29 were rejected in further view of JUNEAU 6,228,020.

According to the Official Action, most features of the claims are disclosed by AMBROSE, while LEVIN discloses, e.g., a sound aperture for a microphone being located in the center of an

outer end face. As will be elucidated below, applicant is of the opinion that no combination of an earphone of AMBROSE with a hearing aid device of LEVIN leads to a hearing aid according to the invention.

In the Official Action, the Examiner states that, in the embodiment of Figure 13, the outer end face of the standard part is oval and mirror symmetrical in outside end view. The Examiner also mentions that the embodiment of Figure 10 comprises a microphone. Although these observations may be correct, it is important to note that Figures 10 and 13 relate to different embodiments. No single embodiment in AMBROSE discloses both a microphone and a symmetric oval end view.

The only embodiments comprising a microphone are shown in Figures 9, 10 and 11. Figure 10 shows a front view of the end face of the hearing aid with the microphone. The microphone is clearly placed off-center and the end face is not symmetric. Using such a hearing aid for both the left and the right ear would result in cosmetic and acoustic differences between the one ear and the other.

According to the invention, these cosmetic and acoustic differences do not occur, because the sound aperture and the microphone are located in the center of the outer end face. The cross section of the standard part is symmetrically oval and all elements on the end face of the standard part are disposed in

such a symmetrical arrangement that a 180 degrees rotation makes no cosmetic difference.

According to the Examiner, the features not disclosed by AMBROSE are derivable from LEVIN.

Applicant, however, respectfully disagrees. Figures 2-24 of LEVIN show a variety of shapes for front faces of hearing aids. The shapes are adapted to the shape of the inner ear of individual patients. It is not reasonable that a skilled person seeking for a suitable standard part, would read a document discussing how to make a different, custom hearing aid for each individual user. Indeed, in column 1, lines 20-25, LEVIN even teaches not to use standard parts at all, and thus teaches away from the present invention.

Even if the skilled person would read LEVIN, one would not obtain the solution of the current invention.

LEVIN discloses all kinds of irregularly shaped front faces. In none of the figures, the front face is symmetrically shaped. The front face of Figure 24 comes closest to oval, but is also irregularly shaped, not oval and not symmetrical. No other reasons for any of the disclosed shapes are provided, other than the reason that they fit well into the ear of one particular person. LEVIN does definitely not teach a skilled man to use a standard symmetrical front shape.

In Figure 24, the microphone appears to be close to the center of the front face. The description does, however, not

provide any particular reason for that position. In the other 21 shapes, the microphone is not placed near the front face center. LEVIN teaches no positive effect of any particular microphone position and does not teach the skilled person to put the microphone in the center. Additionally, LEVIN does not show any embodiment wherein all elements on an end face of the standard part being disposed in such a symmetrical arrangement that a 180 degrees rotation makes no cosmetic difference.

The hearing aid according to the current invention is not derivable from AMBROSE, LEVIN or a combination of those two documents. The present claims are therefore considered non-obvious with respect to the cited prior art.

As to Official Action paragraph 5 (page 5), it is noted that the specific technical features of the claimed invention (shape, microphone position, element arrangement) are recited structural difference between the invention and the prior art. These recited structural differences/features result in enabling a particular use. The particular use itself is not claimed.

Conclusion

The present claims are believed to be in conformance with the requirements of patentability, their being proper as to form and non-obvious.

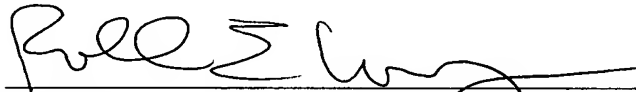
Accordingly, reconsideration and allowance of these claims are therefore solicited.

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON



Roland E. Long, Jr. Reg. No. 41,949
745 South 23rd Street
Arlington, VA 22202
Telephone (703) 521-2297
Telefax (703) 685-0573
(703) 979-4709

REL/lrs